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The Weekly Kaimin, January 5, 1911

University Press Club of the University of Montana

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THE WEEKLY KAIMIN

VOL. IV.

UNIVERSITY OF MONTANA, MISSOULA, JANUARY 5, 1911.

NO. 13

LAW LIBRARY DONATED

MRS. W. W. DIXON GIVES UNIVERSITY VALUABLE BOOKS. PRESIDENT PLEASSED.

WILL GIVE IMPETUS

Donation Will Have Decided Effect Upon Plans For New Law School.

President Duniway last week received word from Senator Dixon that Judge Dixon of Washington, had left his extensive law library to the University with a view to helping the foundation of a law school. The library is complete and valuable and its donation removes one of the greatest obstacles which have stood in the way of the University's plans.

"I am greatly pleased to hear the news," said Dr. Duniway. "This law library just fills one of the wishes which I have long cherished and when we get it we will have taken a long step in the direction of the foundation of a department of law."

The following article, published in The Missoulian under a Washington date, tells the story in detail:

Washington, Jan. 5.—(Special)—Mrs. W. W. Dixon, widow of the late Judge Dixon, who recently died in Los Angeles, is spending the winter in Washington with her cousin, Mrs. Colonel Williams of the Coast artillery. Mrs. Dixon is much improved in health. For several weeks she has been staying at Dr. Lockwood's private hospital in New York City. Since coming to Washington she has consulted with Senator Dixon regarding her desire to give to the University of Montana the extensive law library of the late Judge Dixon. She says that it is her desire to transfer his law library to the University of Montana to be used as a memorial to him in connection with the law school that she understands is about to be established at the state university of the state of which her husband was so distinguished a citizen.

A Fitting Monument.

Her friends in Washington feel that a no more fitting monument could be established to the memory of Judge Dixon than making his law library the foundation for the proposed law school of the Montana State University.

For 30 years Judge W. W. Dixon was the acknowledged leader of the Montana bar, and acknowledged as one of the great lawyers of the west. The use of his law library to the aspiring young law students at the state university, would in itself, be an inspiration toward achieving high standing in the profession of law, and its gift by his widow at this time to the state university, when effort is being made toward establishing a law department there, will be especially gratifying to the friends of the university, and the action of Mrs. Dixon will be warmly commended by all of the old time friends of her distinguished husband.

At her request, Senator Dixon has agreed to take up the matter of the transfer of the law library with Dr. C. A. Duniway, president of the state

(Continued on Page Three)

ELLEN TERRY PLEASURES

Famous English Actress Delights Small Audience at Harnoio Theater.

Miss Ellen Terry, the famous English Shakespearian actress, appeared at the Harnoio theater under the auspices of the University Lecture Course on December 16. A large number of students stayed in Missoula to hear Miss Terry's lecture, of which the Missoulian spoke as follows:

It was a pitifully small audience which listened last night at the Harnoio, to Ellen Terry's analysis of Shakespeare's heroines, but the favored few will always retain a delightful memory of the charming actress whose gentle spirit has defied time and who seems younger and stronger than she did two decades ago; also there will ever be with them a new and better understanding of the woman of the great poet, for they have been permitted to see these women through the eyes of a woman who knows them best.

Miss Terry's lecture was absorbingly entertaining and instructive. It cannot be described properly, as its most winning charm was in the impersonations which were given of the characters discussed. These impersonations left indelible pictures which will always be the conception which Miss Terry's hearers will hold of the women created by the great dramatist.

"None of Shakespeare's women is bad," is Miss Terry's summation of the composite heroine. She presented the leading characteristics of each of the fair women, types widely variant, but each possessed of some overshadowing attribute which redeems her faults. The impersonations were not mere recitations—they were acting—the whole soul of the actress was thrown into her work.

Beyond this, Miss Terry's remarks comprised rapid surveys of the heroines whom she loves. There was Portia, devoted and true but clever and witty; Desdemona, "the whitest of Shakespeare's women;" Cordelia, tender, and Cleopatra, passionate; Katherine, noble, and Lady Macbeth, daring; Imogen, lovable, and Ophelia, timid. The lecture closed with Ophelia's "Good night, sweet ladies, good night, good night," which was blended into Miss Terry's own farewell. It was a memorable event.

There was but one unpleasant feature to the entertainment—the low temperature of the house. For this, Miss Terry's personal request was responsible. She found the theater too warm and asked that the stage windows be thrown open; this was done, and the windows were kept open throughout the evening. It was uncomfortable in front, but, even as it was, Miss Terry found the temperature too high and was exhausted when she had finished.

DUNIWAY HONORED.

President C. A. Duniway was elected first vice president of the State Teachers' Association at the meeting held in Billings during the holidays. Dr. Duniway was one of the prominent figures at the meeting and his election was popular. The next meeting of the association will be held in Great Falls.

BASKETBALL TONIGHT

VARSITY TO PLAY UNITED STATES CHAMPIONS IN GYMNASIUM.

PORTAGE TEAM GOOD

Varsity to Be Strengthened By Addition of Bishop and Whistler.

The basketball team of the University of Montana will play the team from Company F of the Wisconsin state militia from Portage, Wis., in the gymnasium tonight at 8:30 o'clock. The game was scheduled during the holidays, and will give Missoult people as fine an exhibition of the great winter game as could possibly be obtained. The Portage team won the championship of the United States last year, and the same team which won the title last winter will appear in Missoula Friday night.

The Wisconsin team won the championship after defeating such teams as the University of Chicago, the University of Wisconsin and the University of Minnesota, as well as the best of the middle western independent teams. It is composed of amateurs who are genuine sportsmen, and whose ability as basketball players cannot be doubted.

Victories 'Inus Far.

The visitors have already played several games in Montana. During the past two weeks they have met and defeated the Billings, Anaconda and Butte teams in the state league. Billings was beaten by a score of 36 to 18; Anaconda by 48 to 24 and the Butte Maroons by 30 to 25. The exhibitions have all been splendid and the reports from the cities in which the team has thus far appeared show it to be composed of gentlemen.

The university will not play the visitors unprepared. For several weeks prior to the Christmas holidays five teams were out for practice every night in preparation for the coming inter-class series, and as a result the best players in the university are all ready for real work. Captain Ryan headed a large squad last night in the first real official varsity practice, and the result of the evening's work was gratifying to both players and coach.

Several Veterans.

Hard work will be continued all through this week and by Friday the university team will be playing high-class ball. It is impossible to give the varsity lineup as yet owing to the large number of men who are showing up well, but it is certain that a strong team will be built around the two veterans, Ryan and Little, and that the visitors will have to play hard and fast after the whistle starts the game. McCarthy, Spencer, Buck, Marshall, Plummer, Dobson and half a dozen others are playing fine ball. It is possible, in view of the fact that the Portage team does not play under collegiate rules, that Bishop, the star guard of the team for three years, and Whistler, who coached the team last winter and who is attending school as a freshman this fall, will be allowed to enter the game for the varsity.

ALUMNI GET BUSY

The Association Holds Meeting During the Holidays—Mr Jones' Letter.

On Friday, December 23, the Alumni association entertained the Missoula county legislators at a banquet in the Savoy hotel, the object of which was to inspire interest in the university's campaign for a men's dormitory. Interesting speeches were made and the legislators affirmed their interest in the university. The following letter has been issued by the association: Fellow Alumni and former students:

The first semester of another academic year is nearing its end. A legislature will soon be in session and must pass on questions vital to the University. You will doubtless wish to be informed about the developments of the year, and about the University business which will come before the legislature. To give you information on these points, and possibly to suggest ways in which you may help the good work, is the purpose of this letter.

A gain of 21 per cent in registration (which rises from 145 to 177) over the enrollment of the first semester of last year, is indicative of conditions. The University will now enjoy pronounced growth, stimulated by the effects of raising standards and dropping the preparatory department. It is very significant that the registration of men has increased to 105 as compared with 62 one year ago, the largest gain being in the Department of Engineering. The benefits of the "new student campaign" conducted last summer by our Alumni association are so apparent that we should look forward to a similar campaign during the coming year. The passage of the constitutional amendment concerning taxation by a large majority is another one of the successes of the University for the work of the Alumni and students was an important factor in bringing about its adoption.

The Faculty has been strengthened by additional appointments in Engineering, History and Education, English and German, while there have been changes in the departments of music, Chemistry and Physical Culture. Professor Harkins and Instructor Knowles have returned to their duties after study on leaves of absence.

The low standard of salaries of the faculty prevailing in the past has been somewhat raised in the last two years, but all too slowly. On the renewed recommendations of the president, the State Board of Education has authorized the payment hereafter of a minimum of \$1,200 to instructors, and a maximum of \$2,500 to professors.

The purchase of books and apparatus continues to improve facilities in the department, each one seeing some substantial progress. The most notable recent betterments of this kind have been for Engineering, Physics, Forestry, Psychology and the Library.

Besides minor repairs and improvements, one small building was constructed during the year, a cottage infirmary for the care of those who may be suffering from contagious or infectious diseases. Whenever emer-

(Continued on Page Three.)

JUDGE CHEADLE TALKS

NOTED JURIST ADDRESSES STUDENTS AT OFFICIAL ASSEMBLY.

GIVES GOOD ADVICE

University Is Urged to Ask Legislature For What It Wants.

At the official assembly Wednesday morning Judge Cheadle of Helena addressed the students. His speech was one of the most interesting which have been heard at the University this year and was greatly appreciated. Judge Cheadle spoke concisely and pointedly of University problems, particularly referring to the financial duties of the state toward the University and of the moral and intellectual duties of the University to the state.

Judge Cheadle began by affirming his interest in the university. "I am interested in all of our state schools," he said, "and I am glad to be able to see the inside of the university instead of looking at it from the outside. This is the first time I have ever had the opportunity of visiting you, although I have always kept in touch with the work of the colleges and schools in Montana as far as possible.

"I am a firm believer in the direct support of education by the people through legislatures and other governing bodies. In this state I do not think that the various political divisions—the counties, the towns and the state—have been as generous as they should, but I think that this is due more to an excessive material growth than to neglect. A change is coming now.

"Montana is a big state," he continued. "Not only in area, but on account of its great mines, its fertile valleys, its dry farming and its red apples. We should be able to call it a great state on account of its educational institutions. Until our schools and colleges from the grades up to the university are given the support necessary, if they are to turn out the right kind of citizens, the state will not be truly great.

"Ask for Money!"

"You people of the university should not feel any bashfulness in asking for what you want from the state legislature. The only way in which people get what they want in this world is by asking for it, and you may be sure that unless you ask the legislature will not give. This is a peculiarly fitting time for the educational institutions to ask for larger appropriations. The state is at this time in a better condition than ever before to satisfy the demands. There is no reason why the appropriations wanted by the different state institutions should not be supplied. Do not let the legislature tell you that the appropriations cannot be made this year. The stock answer for representatives and friends of the educational institutions, 'Not money enough,' is not good this year, for there is no lack of funds.

"The passage of the tax amendment to the state constitution last fall insured the presence of enough money

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MONTANA vs. PORTAGE TONIGHT

GAME CALLED AT 8.30

ADMISSION, 50 Cents

The Weekly Kaimin

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THURSDAY, JANUARY 5, 1911.

CALENDAR.

Friday, January 6—Basketball game in Gymnasium, between Company F Portage, Wis., and University of Montana.

Friday, January 27—First semester ends.

Monday, January 31—Entrance Examinations.

HAPPY NEW YEAR.

A new year has come. A year which promises to be even richer accomplishment than that which has just passed. The holidays opened showed a clean, brilliant record. The close brings us face to face with a lot of new problems. 1911 brought with it a lot for the university to do. A men's dormitory must be secured, for instance. There is a basketball championship which would make a fine running mate for last year's football title. A new semester will start in a little while and there will be a chance then to build up the attendance. There is going to be little chance for rest this month. Too much must be done. But the record of 1910 shows how capable the university is of meeting the situation and "Happy New Year" is not hard to say.

JUDGE CHEADLE.

Since the university opened in September a number of prominent lawyers and jurists of the city and state have been conducting here an elementary law class, a class which is the seed from which it is hoped a department of law will spring. The services of these gentlemen have been given freely and without any display, and the student body of the university, as a whole, has taken it as a matter of course; those who knew anything about it.

It was Judge Cheadle of the state

supreme court who was responsible for the awakening of the school to the fact that a few men were doing it and the state a great service. His speech at the assembly Wednesday morning aroused a lot of interest in Judge Cheadle, and, incidentally, in the law course, and it is safe to say that since Wednesday everyone has become satisfied of the fact that the university has an elementary law class, that that class is soon to become a law school and that the credit for the work is due to a few, loyal, faithful men.

We have all rather neglected the fact. But if our appreciation is a little slow it is none the less deep and genuine. The small group of lawyers who have been doing this lecture work are doing the university a great service and the university is really grateful for it.

THE STATE LEGISLATURE.

Judge Cheadle's speech at Wednesday's assembly contained a great deal of food for thought, but nothing, probably, which he said made a greater impression than these words: "Don't be bashful. Ask the legislature for what you want. It is able to supply it." That advice was badly needed. We knew what we wanted but we were bashful. What we want, members of the state legislature—and we want it badly—are:

A ratification of the appropriation made by the state board of education. The campus must be extended as far as possible, new walks and other repairs must be made and new equipment must be purchased.

An appropriation for a law school. A new engineering shops.

And, more than anything else, a dormitory. Because of the fact that the large proportion of the men in the University must live in private homes, scattered through the city, at excessive rents and charges and separated from all influences of home, the attendance at the University is but a small percentage of what it should be.

We have asked. Our needs may be many but they are real needs and the sooner they are satisfied the sooner will the University take its proper rank among similar institutions in other states.

Judge Cheadle hit the nail on the head when he said, "Don't be bashful."

The A. S. U. M. finances are now above par. Help the Kaimin to get there.

By boosting interclass basketball, you boost intercollegiate basketball.

The Senior class is making preparations for an early "Swing out."

There is a reason. Everybody is boosting.

If you have any latent debating ability, get out and show it.

A happy New Year! And many of them.

We need lots of things; we asked for a few and we should have them.

Basketball and debating next!

The alumni are hard at work again.

MISS BUCKHOUSE CHOSEN SECRETARY OF ASSOCIATION.

The State Librarians' Association honored Miss Gertrude Buckhouse, the University librarian, at its annual meeting, held in Helena, by electing her secretary for the coming year. Miss Buckhouse read an interesting paper. The meeting was a pleasant one, Miss Buckhouse reports, and the sessions were enjoyable and profitable as well.

INTERCLASS CONTESTS

FIRST GAME OF SERIES TO BE PLAYED BETWEEN FRESHMEN AND SOPHS.

The interclass basketball series will open Tuesday afternoon with a game in the gymnasium between the Sophomores and Freshmen. The game will be called at 4:10 and no admission will be charged.

The two teams are each confident of victory and the game should be a close one. The line-ups have not yet been announced, but Marshall, Dobson and Buck will probably be the strong Sophomores, while McCarthy, Whistler and Guest will be the Freshmen stars. The seniors and juniors will play Thursday afternoon.

INTERCOLLEGIATE.

Despite the use of the new rules which were made to lessen the peril of the players, the price paid for football this last season was a total of fourteen dead and forty seriously injured. Five of the deaths were among college players, five among high school players and the other four belonged to athletic clubs of the country.

A new engineering building has been proposed by the Montana State College of Agriculture. The building of the proposed structure will require \$80,000 and is to be made of pressed brick and finished in hard wood. The Engineering Department will be relieved of its lack of room and the Chemistry and Pharmacy departments can be enlarged if the proposed building becomes a fact.

Columbia University has decided to enlarge its enrollment in numbers and scope by distributing circulars in China printed in the language of that country.

A club has been organized at the University of Wisconsin for all the "William's Club," and its avowed purpose is that of promoting good fellowship.

A check for \$67,966 from the Rockefeller foundation was received on Jan. 3, 1911, by Treasurer I. D. Smith of the University of Vermont, representing the first installment of a gift of \$100,000 made to the University, on condition that an additional \$400,000 be raised elsewhere. The \$400,000 has been subscribed and \$271,000 collected. The half million dollars is to be added to the endowment fund of the University.

The first intercollegiate aviation contest will be held next spring between Harvard and Columbia universities at Belmont Park.

A census taken at Dartmouth College shows that 84 per cent of the seniors, 63 per cent of the juniors and 52 per cent of the sophomores smoke.

Oxford University has arranged for the official recognition of women students by the governing boards of the University. Hitherto they have been permitted to be candidates for a degree, but received no other recognition from the University.

At the celebration of the one hundredth anniversary of the Berlin University in October, Emperor William advised the students strongly against the use of alcohol beverages and urged more physical exercise. He also announced that he had secured gifts from private individuals amounting to two and one-quarter millions dollars for endowing scientific research.

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JUDGE CHEADLE

(Continued From Page One.)

in the state treasury to satisfy all of the reasonable demands of the educational institutions.

For the University.

"There were a lot of people in the state, and I was one of them, who were in doubt as to the wisdom of voting for this amendment. Property in the state is not now assessed at anywhere near the figure for which the constitution provides—its full market value. It is assessed, perhaps, at about one-third of this. Moreover, there is a lot of money wasted, and it seemed at first that the maintenance of the high tax rate was not right. These thousands of voters, however, realized that if the revenue of the state was cut down the state educational institutions would be the first to suffer, for since the appropriations for these are among the few unsteady sums which the legislature has to pay out, they would be cut down at the very start. In view of this fact the amendment passed, and more votes were cast, proportionately, than in any other amendment election ever held in Montana.

Show Products.

"Send some of your men to the legislature. Show what your products are, for after all, the products make the school. Send practical engineers over there, and scientists, and let the legislature see what you are doing. The University of Wisconsin, which is probably one of the most powerful educational institutions in this country, depends upon appropriations from the state legislature, and it is by just such a scheme that it has interested the legislators of the state. The University of Wisconsin has done a lot of practical service for the state, and it is that which has made the farmer-legislators so generous in their support.

"You must in the end repay this investment and some more besides. Unless the graduates of this school, when they take charge of the work which we will soon be laying down, can do it a little better than we have done, the support of the school is not justified. Not many of you young men can vote, I suppose, but you should interest yourselves in the questions over which we are puzzling now, for we look to you for their final settlement. The legislature has before it today the questions of direct election of senators, of the reapportionment of representation in the legislature, of the commission form of city government, and a score of others. You should inform yourselves of these things. It will not be long before you must deal with them. The politician usually cares more for office and the spoils of office than for legislation. It is the thinking man outside, usually,

who must do the work for the advancement of the state. For those reasons you should begin to learn about your state and the problems which confront it.

"I will say, in conclusion, that I believe that the people of the whole state are interested in the university and the other institutions of the state. The people of Bozeman feel more interest, perhaps, in the agricultural college than in the university, but I think that in general there is little jealousy. It was a contemptible thing for the legislature to segregate the different state institutions; but it is too late to remedy this now. I assure you that the people of my section are deeply interested in the university, and I will promise Dr. Duniway that anything I can do to help him in securing the help which he needs will be done willingly."

Dr. Duniway thanked the speaker for his expression of friendliness, and the meeting was dismissed. Judge Cheadle will deliver his second law lecture in the university library at 11:30 this morning. The public is cordially invited.

LAW LIBRARY DONATED.

(Continued from Page One.)

university, and it is hoped that this generous action on the part of Mrs. Dixon will be an incentive toward inducing the present session of the Montana legislature to make provision for the establishment of a law school at the university, where the young men of Montana who are desirous of fitting themselves for the profession of law may be able to receive a thorough legal education at home without going to the great expense of attending the law schools in the east.

Among many of the best lawyers it is believed that law students really receive a better training in the fundamental principles of the law at a smaller school, where they can be in direct touch with the professors of law, than in the larger schools, where individual teaching is prohibited on account of the large number of students in the different classes.

Probably some of the greatest lawyers that this country has produced received their legal training at the University of Virginia 30 years ago, when John B. Minor and one other professor constituted the entire faculty of the law school of that great institution.

ALUMNI GET BUSY.

(Continued From Page One.)

gencies arise this cottage will be of great value to students.

The spirit of the whole University is one of optimism. Faculty and students alike rejoice in visible educational progress and have confident ex-

pectations for the future. The student body have entered enthusiastically into movements for the general good, especially the cultivation of sentiment favorable to the University among high school students and the campaign for the passage of the constitutional amendment. Athletic championship in track and field sports and in football also have contributed to the general happiness.

President Duniway's recent annual report to the State Board of Education will be mailed to you almost immediately. Therein you will see that certain plans, out of a large number deserving consideration, have been emphasized as the next steps in the development of the University.

First and fundamental importance is assigned to increase of maintenance funds, because better salaries and equipment are essential to the life of the institution.

Next comes the addition of a Law Department and a Summer School. Investigation shows that courses in law and in a summer school are greatly needed to meet existing demands, and will be taken by scores of students. The University must have the first and best Law School in Montana and a Summer School for hundreds of teachers who are being required by school boards to take such courses.

The beginning of a definite support for University Extension by lectures and correspondence appears in a request for small yearly appropriations. Nothing has helped more in the past year to bring the University to the favorable notice of the people than the extension work just started. The educational service to be rendered in this way is of the utmost value.

Building needs of the University are urgent in the Department of Engineering. Laboratory space is hardly provided at all in the present rooms in Science Hall, which are crowded by drawing and lecture classes. A temporary sheet iron shed now shelters valuable machinery, for which there is no space in the building. Registration has suddenly become so large (there are 23 freshmen engineers) that space and equipment are utterly inadequate.

The need of a dormitory for men hardly needs explanation to the Alumni of the University. Your own experience gives you knowledge of the expensiveness of good rooms and board in Missoula. If men could live at cost and with the comfort and conveniences of a dormitory their difficulties in getting a University course would be so much lessened and they would come in greater numbers.

That the Biological station on Flathead Lake should have at least a building of moderate cost for its valuable summer scientific work must be evident to all who are acquainted with Dr. Elrod's work.

For the future expansion which is sure to come the present campus must be enlarged. Just now it is possible to purchase 20 or 25 acres of land, adjacent to our holdings and not yet occupied by dwellings, for reasonable prices. The growth of Missoula makes it certain that this land must be had now or it will be lost to the University except at very high prices.

The State Board of Education has again endorsed the proposed life certificate of teachers for University graduates. The bill ought to become a law at this winter's session of the legislature.

Thus we have outlined the larger and more significant projects which will be presented to the legislature. May not every alumnus help by influencing senators and representatives to consider these plans favorably? Who will work for these ideas if we Alumni do not?

Very sincerely,

JOHN D. JONES,
Vice President Alumni Association.
J. B. SPEER,
Secretary Alumni Association.

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UNIVERSITY NOTES.

Ray Bullerick, a brother of Millard Bullerick, winner of last year's oratorical contest, will enroll in the University for the short course in Forestry. He has been visiting his brother since the holidays and has already become well-acquainted with the school.

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Surplus Fund, . . . 50,000.00

G. A. WOLF, . . . President
J. H. T. RYMAN, . . . Cashier

The

First National Bank

OF MISSOULA

F. S. LUSK, . . . President
EDWARD DONLAN, . . . Vice-Pres.
E. A. NEWLON, . . . Cashier
H. S. HOLT, . . . Asst. Cashier

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in Connection

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Furniture and Carpets

Union Market

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Join our Pressing Club, \$2.00 per month. Four suits pressed.

The Pantorium

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The Ward Studio

Students' Photographer

335 HIGGINS AVE. PHONE 393

Miss Maude and Massey McCullough were the guests, during the holidays, of the Misses Kennet of Helena.

Yale's football receipts this fall were about \$70,000. The receipts from the Harvard game alone were \$34,000.

Society Brand Clothes

Are fashioned with the
Young American Gen-
tlemen in mind. What
better subject can you
put before you as an
example to dress by?

See our beautiful Society Brand
Models

\$22.50 to \$35

Missoula Mercantile Co.

INTERESTING LECTURES

JUDGE CHEADLE ADDRESSES
STUDENTS IN ELEMENTARY
LAW CLASS.

Judge Cheadle delivered two inter-
esting and instructive law lectures be-
fore the class in elementary law last
week. The two talks were greatly ap-
preciated and were attended by a
large number of students and towns-
people. The first lecture was on
"Water Rights" and was in part as
follows:

Judge Cheadle prefaced the discus-
sion of the adjudication of water
rights by a review of the development
of western water laws. He said that
the conditions in the arid and semi-
arid regions of the west have de-
veloped what is practically an entire-
ly new species of action in equity. It
arises from the necessity of water for
the successful cultivation of the soil
and is largely statutory in its nature.
The old rule of the common law was,
and now is, that water shall flow
where it has been accustomed to flow
without substantial diminution of the
volume or alteration of the channel of
the stream. This rule was based upon
the climatic conditions which often
produced a too abundant flow of
water.

This law yet obtains in the At-
lantic states and as far as the tier
of states just west of the Mississippi
river. West of these latter states,
custom at first, and, later, law changed
the rule. In this region water is not
regarded as a burden and something
to be gotten rid of, but as something
to be appropriated and used by the
owners whose lands it reaches first.
So valuable is water here that the
question of rights has been the cause
of more quarrels, bloody and other-
wise, than can be attributed to any
other single cause.

Montana Laws.

Judge Cheadle then traced the de-
velopment of the water-right laws of
Montana from the custom established
by the earliest settlers, through the
days of early territorial legislation, to
the existent statutes. "Generally
speaking," said Judge Cheadle, "first

in time, first in right, applies to the
appropriation of water in this state;
the common law obtains but little
here." The development of the state
has made old water rights very valu-
able. Some of these early appropri-
ations were excessive in quantity and
the courts have held that, no matter
how much water a man may have ap-
propriated when his right was filed, he
is entitled to use only the quantity
which is necessary for the irrigation of
the land upon which he uses it; the
excess of his appropriation over the
necessity of the situation must be sur-
rendered.

Discussing the trial of water-right
suits Judge Cheadle said that the pro-
cedure of no two judges is precisely
the same; conditions alter the methods
and the experience of each judge has
been to some extent different from
that of others. In determining rights,
no community of interest is necessary
beyond the derivation of the supply
from the same source. The common
method is for one person or group of
persons to bring suit against another
person or group of persons claiming
to derive waters from the same source.

A Famous Case.

The speaker used as an illustration
the famous West Gallatin case which
was brought to determine the rights
of all persons using the waters of the
West Gallatin river and its tributaries.
This was one of the largest water
cases ever tried in the west. There
were many parties involved and about
16 months were required to secure
service upon all of them; there were
additions to the number almost to the
very conclusion of the case. Such a
suit is really in the nature of a suit
to quiet title, but the breadth of its
scope gives it to some extent a pub-
lic significance.

In the West Gallatin case, as in
most such cases, there was no jury.
The court heard the evidence, made
his own findings of fact, deduced his
own conclusions and promulgated his
decree. A special docket was pre-
pared for recording the findings of
fact. Each party to the suit was re-
garded as a plaintiff with reference to
his own rights and a defendant
against all others. This makes these
cases really in the nature of arbitra-
tion rather than suits in equity.

In this case, as in most cases of the
sort, there is a tendency with each

party to exaggerate the extent of his
own need of water and the carrying
capacity of his ditches. To determine
accurately the capacity of the ditches
two engineers were employed by the
court. The work of these engineers
resulted in a great modification of the
claims as to capacity of the ditches
involved.

More than half the claims were ad-
mitted without opposition except for
the scrutiny of the court; two and a
half months were consumed in taking
testimony. In addition to the work of
the engineers, the presiding judge
made a personal tour of the valley,
visiting every farm and every ditch
involved. Many matters were con-
sidered; the transfers, the loss of
water in transportation through
ditches, the character of the soil and
other points were carefully consid-
ered. Expert irrigation engineers were
sent into the field to determine by
actual experiment the amount of water
required for each acre of the differ-
ent classes of soil.

The Decree.

When the conclusions had been
reached, the decree was printed and
distributed, giving the amount of water
to which each claimant was entitled.
Much dissatisfaction was expressed by
some farmers who had been in the
habit of using too much water, but the
limitation of their supply proved a
good thing as the excess of water had
made swamps of some fine meadows.

The decree ordered the construction
of suitable headgates at the diversion
points and at laterals. All parties
were forbidden to divert any of the
waters of the West Gallatin valley.
The total amount of water decreed
was 97,716 statute inches.

The earliest rights involved dated
back to 1865; with the exception of
some of the earlier dates, nothing was
left to estimates or recollection; all
acres were surveyed and all ditches
were measured.

Use of Water.

The details of this case were given,
as the suit furnishes an excellent ex-
ample of the problems which rise in
such hearings. The first diversion of
water in this state was for placer
mining; next came its use for power
in sawmills and gristmills; then fol-
lowed its use for agricultural purposes
and for operating quartz mills; next
for supplying towns with water for
domestic uses; finally for the genera-
tion of electric power.

The state assumes, to an extent, the
ownership of the water within its bor-
ders and permits their appropriation
under specified restrictions; it must
be for beneficial purpose that the ap-
propriation is made, and when an ap-
propriator ceases to use it for that
purpose, the right ceases. The ques-
tion of abandonment, however, must
be determined by the court. Mere
non-use does not constitute abandon-
ment where there is intention to use
it again. The appropriation of water
does not vest title in the substance of
the water as in the ownership of land;
it is merely the right to use the water.
And, as has been said, no appropriator
may use more water than he needs.
The place of diversion may be changed
if it does not interfere with the rights
of others.

A statute of 1885 provides for a no-
tice of appropriation; this notice is
to be posted and filed with the county
clerk. Within 40 days of the date of
appropriation, work must begin on the
construction of a ditch. But a right
may be acquired without posting a no-
tice if the water is actually diverted
and put to beneficial use.

Judge Cheadle closed with an out-
line of recent legislation regarding the
measurement of waters and their use.
The court decree distributing water is
binding.

"The water of Montana," said the
speaker in conclusion, "is one of its
most valuable assets. Properly used,
it will double or treble the value of
the agricultural lands of the state, to
which it may be applied; it will gen-

L System Clothes



New store, new fab-
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Montana.

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erate power sufficient for all the re-
quirements of industry and commerce
and will in numberless way contribute
to the prosperity and comfort of our
people. Its proper use and develop-
ment is a subject of grave public im-
portance, well worthy of the best
thought and most efficient action of
those to whom we intrust the manage-
ment of the affairs of this great state."

Judge Cheadle will address the uni-
versity students and their friends in
special convocation at 10:30 o'clock this
morning, and tomorrow morning will
deliver his second lecture.

CONCERT COMPANY GOOD

SECOND NUMBER OF LECTURE
COURSE VERY SUCCESSFUL
LARGE ATTENDANCE.

The University Lecture Course pre-
sented its second regular number on
Saturday evening, December 17. The
Central Grand Concert Company was
the attraction. Of it the Missoulian
said the following:

A large audience heard and ap-
plauded the Central Grand Concert
Company, an attraction of the Uni-
versity Lecture Course, at the Harnois
theater last evening. The members of
the organization, Maximilian Dick,
violinist; Edith Adams, violincellist;
Louise Merrill, mezzo-soprano, and
Adolph Knauer, pianist, received re-
peated encores and, on the whole, the
performance was as strong as any
brought to Missoula by the University
people this fall. The program speaks
its own excellence.

Program.

Trio—D Minor, First Movement..... Mendelssohn
Violin—Faust Fantasie..... Sarasate
Vocal—Knowest Thou That Fair
Land (Mignon)Thomas
Cello—Le DesirServais
Piano—Ballade—A Flat.....Chopin
Violin—Hejre KatiHubay
Vocal—
(a) Her Rose.....Garrett Smith
(b) Hills o'Syke.....Victor Harris
Cello—Elf DancePopper
Trio—Waltz (From Fairy Tales
Suite)Schutt

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4 Pairs \$3.50. 4 Pairs \$7.50.
Beautiful new Onyx Hosiery. Special
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Christmas

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A novel way has been decided upon
in the University of Chicago for dis-
tinguishing the seniors. Every senior
is compelled to wear a mustache and
the best specimen is to be awarded a
prize at the Senior ball.

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